

GILBERT, ON STAND, PUTS IT UP TO GATES

(Continued From First Page.)

Immediately to the stand. The defendant remained on the stand for two hours and a half, being interrupted only once, and then when Connerman John A. Lamb, who was forced to leave the trial, was called upon as a character witness. Adjournment was ordered at 5:30 o'clock. The trial will be resumed to-morrow morning at 10 o'clock.

The jurors will be kept to-day in charge of Marshal Treat and Deputy Murphy. They will not be allowed to see outsiders, and will be shown the newspapers with accounts of the debate proceedings clipped out. The surprising brief period in which the government concluded its case indicates that the trial will come to an end at a much earlier period than was at first expected. An attorney in the case predicts that the argument will begin not later than Tuesday.

Billing Clerk Recalled.

The morning session was called to order at 10 o'clock. J. E. Jones, billing clerk at the Ninth Street station, was recalled. He was on the stand when the hearing closed Friday afternoon. His testimony yesterday was in reference to reassignment orders brought to him by Gates, and which he filled out, allowing the cars to proceed South. His testimony was immaterial and he was on the stand scarcely more than five minutes.

William M. Anderson, who has appeared on the stand twice since the trial opened, was called for the third time. Mr. Anderson is chief clerk of the tariff bureau of the Chesapeake and Ohio, and his testimony was solely in regard to rates. He was asked to repeat certain answers hitherto given and was not cross-examined.

Gilbert T. Swain, cashier at the Ninth Street station, was recalled. Mr. Swain's testimony was especially interesting, as he told that he had been instructed by his superior officer, Mr. Chappell, to make out irregular transfer slips. The witness gave as hearsay evidence that Mr. Chappell acted under orders from Gilbert.

Swain testified further that it was easy to see from the face of the expense bills that they were false, as said he: "The proper expense bill always corresponds in number with the original bill of lading." He also said that the new bills for the shipments South were made partly from the bogus expense bill and partly from the original.

Gilbert Swain is a nephew of Thomas E. Swain, agent at the Broad Street freight depot of the Chesapeake and Ohio.

Cross-Examination.

Swain was cross-examined by Mr. Carter.

"You say when Gates brought papers he always brought both expense bills?"

"Yes."

"That gave you the information for rebilling, did it?"

"Yes."

E. N. Gregory, Jr., correspondence clerk in the office of Gilbert and Hotchkiss, was called. Witness has charge of the correspondence files of the freight agent and assistant freight agent.

Attorney Marble: "You brought certain letters on subpoena?"

"From the files."

"Are they Chesapeake and Ohio files?"

"Yes, sir."

Mr. Marble asked that the letter, which was alleged to be from Gilbert to Charles B. Capps, general freight agent of the Seaboard Air Line Railroad, and a copy of which was sent to J. W. Perrin, general freight agent of the Atlantic Coast Line Railroad, be placed in the evidence.

Letter to Capps.

The letter, which read as follows, and which was dated November 1, 1907, was allowed to be read.

"An irregular practice on the part of certain parties interested in the reassignment of grain from Richmond to points in the South, whereby tonnage representing grain originating in Valley territory has been supplied for reassignment purposes on grain which in fact originated in the West, thus securing for the movement South the proportion accruing in the Valley grain, has been recently brought to our attention.

"We have called the party's attention to the unlawfulness of the practice to which this company has been unwittingly the medium through which it has been accomplished, with the plain demand that there was but one course for them to pursue, and that was to make good the under charge.

"We inclose herewith a statement concerning all cars which we have been able to locate as having been delivered your line, and upon which this practice has been apparent. If indulged in, and if you will send us a bill for the under charge based on the local rates south of Richmond, we will see that it is collected.

"We take this course because we feel that the obligation rests upon us to do this in view of the laxity in the checking through which we have been innocently made the medium for this deception. We might with propriety

Wouldn't It Jar You

When you take your boy out to buy him a Suit, and you purchase one somewhere for \$4.00 or \$5.00, and then you pass your showcase, Third and Broad Streets, and see \$2.50 similar Suits, that sold from \$3.50 to \$5.00, at our greatly reduced price

Wouldn't It Make You Mad?

Avoid being jarred and come right straight to Fellheimer's and purchase one of those \$3.50 to \$5.00 Straight Pants Suits at

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MEN'S SUITS, made up with that swagger effect: patterns exclusive; prices ranging from

\$10 to \$30

Raincoats and Overcoats, \$10 to \$27.50

Come around. If you're from Missouri we can show you.

FELLHEIMER'S

Third and Broad Sts.

Richmond, Va.

add that such course of inspection has now been instituted in the reassignment practice from our station as will effectually prevent a recurrence."

It was brought out that the significance of this communication is in that Samuel M. Chappell, chief clerk of the Ninth Street freight station of the Chesapeake and Ohio, testified Friday that he had told Gilbert that the reassignment practices had been going on for years, which would make the business of making corrections not only difficult, but that the Seaboard and Atlantic Coast Line would not accept the difference in price prior to a certain time.

Mr. Capps's Reply.

The reply from Mr. Capps to the above communication was next read. Mr. Capps wrote Gilbert that the proper way to handle the under charges would be to have the Chesapeake and Ohio issue corrections showing the correct points of shipment and indicating the amount due from the difference in rates.

He further said that the statement submitted with the Gilbert letter only showed inaccuracies between August 13, 1907, and October 3, 1907, and he suggested that there were probably irregularities prior to that time. He suggested an investigation prior to the above named dates. Mr. Capps explained in conclusion that his road had no way to trace the shipments referred to.

The reply to Mr. Perrin was also read, and was to the effect that his road was due the charges.

It was shown that Gilbert had failed to answer either of the letters.

That no remittance had ever been sent in settlement.

Mr. Capps was called to the stand, but his evidence was in regard to the rates over the Seaboard from Valley points into North Carolina, and about the rate from Richmond to the same destinations. He emphasized the fact that his road figured earnings on the reassignment shipments from the way bills of the connecting carrier, and that with these he could tell nothing of the original point of shipment.

O. D. James, auditor of freight receipts of the Chesapeake and Ohio, has charge of the earnings of the freight traffic department, and has filled that position for the past eleven years. Copies of way bills made in his office were handed him, and were recognized. The way bills were admitted in evidence.

The Attorneys Agree.

There was a delay. Judge Waddill urged that the trial proceed. Mr. Smith explained that he and Judge Lewis were discussing a stipulation, which, if agreed upon, might mean the saving of several hours. The agreement was made and was read by Judge Lewis, as follows:

"It is hereby stipulated and agreed by and between counsel for the United States, plaintiffs herein, and counsel for Alexander P. Gilbert, defendant, that the several shipments referred to in the several counts in the indictment herein were, at the several times set forth in the several counts of said indictment, actually delivered in Richmond, Va., by the Chesapeake and Ohio to the Atlantic Coast Line and Seaboard Air Line, respectively, and were, by said two last named companies, respectively, thereupon duly transferred to their respective destinations named in the indictments."

"Did you know these expense bills on which you issued these orders were forged?"

"I did not."

"Did you know Gates's handwriting?"

"I did not."

"Did you see any other paper?"

"That was the only one I saw."

"Now, Mr. Gilbert, what sort of an order would you give for billing out of freight prior to July 17, 1907, on which date the rule for reassignment was published?"

"I would issue a slip quoting the rates, which also included the rate due the connecting railroads. After the passage of the rule I would only refer to the section of the commission's ruling governing the tariff on reassignment."

"I show you the authority for the reassignment of the car spoken of in the first count of the indictment. State how this paper was when it left your hands?"

Erasures and Forgeries.

Mr. Gilbert carefully scanned the paper. He said the paper originally contained the reference to the commission's ruling on which the reassignment of the car should have been made. "When erasures and substitutions," he said, "that paper is signed E. D. H. I did not sign it."

William and Ann Streets, New York.

consignment orders in that way in 1907. I was appointed assistant general freight agent in 1904, and though, through force of habit, I may have signed my superior's initials soon thereafter, I know that I made no such error three years after."

Mr. Gilbert stated that the order for the shipment—the original order—had been issued several years prior to the time it had been used, and that Gates, in order to have got possession of it, must either have taken it from the files of the railroad, or else preserved it unused on his own files.

Mr. Carter: "Were you clerk for Mr. Hotchkiss prior to your election to your present position?"

"Yes, I was chief clerk from 1898."

"You are satisfied this is an old paper?"

"I am."

Mr. Smith: "Prior to the time you were appointed assistant freight agent you used the initials E. D. H., and since that time you have not used them. Is that right?"

"That is right."

"How can you account for this paper being in Gates's possession in 1907?"

"I don't know. I have explained that point."

Mr. Gilbert was shown the reassignment order for the shipment in the second count of the indictment. There were again, according to Mr. Gilbert, erasures, substitutions and forgeries.

A jurymen: "How do you know there is an erasure?"

"It is very apparent."

Jurymen Asks Question.

A second juror, asked what part of the order was forged, and witness pointed to the words containing the specific rate charged for shipments. He added: "I would not say that the rate in it at that time, but would have referred to the rule of the commission, which would have necessitated our agent looking up the rate."

Mr. Gilbert was asked by Mr. Carter whether he had a pad of paper like that on which the reassignment orders were made out. He replied in the affirmative, and the pad was produced.

Mr. Carter asked: "Will you write on a sheet of that paper exactly what was on the reassignment order before it was changed?"

The witness was in the act of writing, when Judge Lewis, of the prosecution, objected, on the grounds that such procedure was not legal.

Mr. Carter, in argument said: "He, the witness, gave this paper to Mr. Gates in one shape, and I am attempting to have him write what appeared before any erasures were made. He will show the reference to tariff has been erased, and that the specified rate of 15 cents has been put in its place."

Judge Waddill did not allow the witness to make out a duplicate of his original order. Mr. Carter asked that one of the jurors or the stenographer be allowed to make out the order at Mr. Gilbert's dictation. But this proposition was likewise overthrown by the court.

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